

# EMPLOYEE RIGHTS

UNDER THE FAIR LABOR STANDARDS ACT • THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

FEDERAL MINIMUM WAGE

**\$7.25** *per hour*

BEGINNING JULY 24, 2009

Revised July 2009

## Overtime Pay

At least  $1\frac{1}{2}$  times your regular rate of pay for all hours worked over 40 in a workweek.

## Child Labor

An employee must be at least **16** years old to work in most non-farm jobs and at least **18** to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths **14** and **15** years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:

No more than –

- **3** hours on a school day or **18** hours in a school week;
- **8** hours on a non-school day or **40** hours in a non-school week.

Also, work may not begin before **7 a.m.** or end after **7 p.m.**, except from **June 1** through **Labor Day**, when evening hours are extended to 9 p.m. Different rules apply in agricultural employment.

## Tip Credit

Employers of “tipped employees” must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee’s tips combined with the employer’s cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.

## Enforcement

The Department of Labor may recover back wages either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action.

Employers may be assessed civil money penalties of up to \$11,000 for each willful or repeated violation of the minimum wage or overtime pay provisions of the law and up to \$11,000 for each employee who is the subject of a violation of the Act’s child labor provisions. In addition, a civil money penalty of up to \$50,000 may be assessed for each child labor violation that causes death or serious injury of any minor employee, and such assessments may be doubled, up to \$100,000, when the violations are determined to be willful or repeated. The law also prohibits discriminating against or discharging workers who file a complaint or participate in any proceeding under the Act.

## Additional Information

- Certain occupations and establishments are exempt from the minimum wage and/or overtime pay provisions.

- Special provisions apply to workers in American Samoa and the Commonwealth of the Northern Mariana Islands.
- Some state laws provide greater protections; employers must comply with both.
- The law requires employers to display this poster where employees can readily see it.
- Employees under 20 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment with an employer.
- Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

For additional information:

**1-866-4-USWAGE (1-866-487-9243)**

**TTY: 1-877-889-5627**

**www.wagehour.dol.gov**

## ALERT!

### Utah Wage and Employment Standards

The Employment Standards Bureau of the Utah Labor Commission administers the Utah Payment of Wages Act, the Utah Minimum Wage Act and the Employment of Minors Act.

Under the Utah Payment of Wages Act, an employee must be paid at least twice a month, employees who quit must be paid their final wages at the next regular payday and employees who are involuntarily terminated must be paid all final wages within 24 hours of the time of separation. The Utah minimum wage law applies to all Utah employers. It is consistent with the federal minimum wage law. The Utah minimum wage rules establish an employer’s cash wage obligation of \$2.13 an hour for tipped employees and the crediting of tips toward the minimum wage. The Employment of Minors Act contains standards consistent with those administered by the U.S. Department of Labor to promote the health and safety of minors in the Utah workplace. There are some differences between the Utah and Federal Employment of Minors statutes. Between the two, the stricter standard applies to the employer. All other standards under these laws including the relevant administrative rules are accessible at: [www.laborcommission.utah.gov](http://www.laborcommission.utah.gov).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Revised January 2009

## UNDER THE FAMILY AND MEDICAL LEAVE ACT

### Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee’s child after birth, or placement for adoption or foster care;
- To care for the employee’s spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee’s job.

### Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

### Benefits and Protections

During FMLA leave, the employer must maintain the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

### Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

### Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

### Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer’s operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

### Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer’s normal paid leave policies.

### Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer’s normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees’ rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee’s leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

### Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

### Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights. FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.

For additional information: 1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627

**WWW.WAGEHOUR.DOL.GOV**

## NOTICE • MILITARY FAMILY LEAVE

On January 28, 2008, President Bush signed into law the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181. Section 585(a) of the NDAA amended the FMLA to provide eligible employees working for covered employers two important new leave rights related to military service:

(1) New Qualifying Reason for Leave. Eligible employees are entitled to up to 12 weeks of leave because of “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or

parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires the Secretary of Labor to issue regulations defining “any qualifying exigency.” In the interim, employers are encouraged to provide this type of leave to qualifying employees.

(2) New Leave Entitlement. An eligible employee who is the spouse, son, daughter, parent, or next of

kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember.

This provision became effective immediately upon enactment. This military caregiver leave is available during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated are available on the FMLA amendments web site at:

**[http://www.dol.gov/whd/fmla/NDAA\\_fmla.htm](http://www.dol.gov/whd/fmla/NDAA_fmla.htm)**

## NOTICE: EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

### PROHIBITIONS

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

### EXEMPTIONS \*

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities.

The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

### EMPLOYERS

You are required to notify UOSH at 801-530-6901, within 8 hours of occurrence, of all fatalities, disabling, significant and serious injuries or illnesses to workers. Tools, equipment, materials or other evidence that might pertain to the cause of such accident shall not be removed or destroyed until so authorized by the Labor Commission or one of its Compliance Officers. You are also required to investigate all worker injuries or occupational disease incidents.

Guidance on “disabling and serious” includes, but is not limited to the following: any injury or illness resulting in immediate admittance to the hospital, permanent or temporary impairment in which part of the body is made functionally useless or is substantially reduced in efficiency on or off the job which would usually require treatment by a medical doctor (examples of such injuries are any amputation, fracture, deep cuts, severe burns, electric shock, sight impairment, loss of consciousness, and concussions); illnesses that could shorten life or significantly reduce physical or mental efficiency by inhibiting the normal function of a part of the body (examples of such illnesses include cancer, silicosis, asbestosis, byssinosis, hearing impairment and visual impairment).

### Inspections, Citations, and Proposed Penalties

UOSH may enter at reasonable times without delay any work place where work is performed by an employee of an employer and inspect or investigate. UOSH may interview a reasonable number of employees to determine compliance with the Act of UOSH standards or rules. A Citation will be issued if UOSH has reason to believe that an employer is in violation of the Act of UOSH standards or rules. A serious violation of the UOSH Act will be assessed a proposed penalty of not less than \$250 or more than \$7,000. Other Than Serious violations may be assessed a proposed penalty of not to exceed \$7,000. Willful or Repeated violations may be assessed a proposed penalty not to exceed \$70,000. Failure to correct or abate a violation may result in

additional penalties not to exceed \$7,000 for each day the violation is not corrected.

### Contests and Appeals

You may request an informal review of any citation, proposed penalty or abatement period. Informal reviews do not stay the 30 days in which an employer must file a contest for a formal hearing before the Labor Commission. The Labor Commission will provide an adjudicative hearing if an employer files a written notice of contest with the Administrator within 30 days of receipt of the Citation or Proposed Penalties. Upon expiration of the 30 day period the Citation and Proposed Penalties are final and not subject to review by any court or agency.

The Federal Occupational Safety and Health Administration monitors the UOSH program. Any person may make a complaint regarding the administration of the UOSH program to the OSHA Regional Office, 1999 Broadway, Suite 1690, Denver Colorado 80202-5716. Telephone 303-844-1600 or 1-800-321-OSHA.

The Utah Occupational Safety and Health Act of 1984 (UOSH Act), assures safe and healthful working conditions for working men and women throughout the State of Utah. The Utah Occupational Safety and Health Division of the Utah Labor Commission, has the primary responsibility for administering the UOSH Act. The rights listed here may vary depending on the particular circumstances.

To file a complaint, report an emergency, or seek UOSH advice, assistance, or products, call 1-801-530-6901 or 1-800-530-5090. To file a complaint online or obtain more information on UOSH programs, visit UOSH’s Web site at [www.uosh.utah.gov](http://www.uosh.utah.gov). For a poster in Spanish go to: <http://laborcommission.utah.gov/AdministrativeServices/RequiredPosters.html>

1-801-530-6901 • 1-800-530-5090 [www.uosh.utah.gov](http://www.uosh.utah.gov)  
“Working together we can make the beautiful State of Utah a safer place to work, elevating our safety and health culture to a higher level of excellence.”

## Equal Employment Opportunity is

# THE LAW

### Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

### RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee’s religious practices where the accommodation does not impose undue hardship.

### DISABILITY

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

### AGE

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

### SEX (WAGES)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

### GENETICS

Title I of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers’ acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

### RETALIATION

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

### WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED

There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at [www.eeoc.gov](http://www.eeoc.gov) or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at [www.eeoc.gov](http://www.eeoc.gov).

### Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

### RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### INDIVIDUALS WITH DISABILITIES

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

The Utah Labor Commission, Utah Antidiscrimination and Labor Division (UALD), is charged with the responsibility of enforcing the Utah Antidiscrimination Act of 1965, found at Utah Code Annotated, Title 34A Chapter 5. The Act prohibits employment discrimination on the bases of race, color, national origin, gender, religion, age and disability. Utah’s law also prohibits employment discrimination on the basis of pregnancy, childbirth, or pregnancy related conditions. Additionally, based on a work share contract and agreement with the Equal Employment Opportunity Commission (EEOC), the UALD is empowered to act as an agent of the EEOC and has authority to enforce Title VII of the 1964 Civil Rights Act, the Age Discrimination in Employment Act and the Americans with Disabilities Act. Anyone, who believes they have been subjected to discrimination on the bases set out above should contact the UALD to process and file a charge of discrimination. The UALD may be contacted at: (801) 530-6801 or toll free at 1-800-222-1238 or visit our Web site at [www.utah.gov](http://www.utah.gov)

## UTAH JOB SAFETY & HEALTH PROTECTION

11-07-2007

*You Have a Right to a Safe and Healthful Workplace*

IT’S THE LAW!

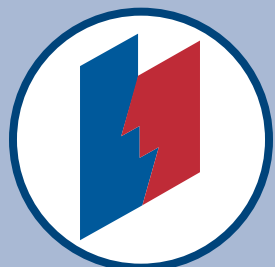


### EMPLOYEES

- You have the right to notify your employer or UOSH about workplace hazards. You may ask UOSH to keep your name confidential.
- You have the right to request a UOSH inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in the inspection.
- You can file a complaint with UOSH within 30 days of discrimination by your employer for making safety and health complaints or for exercising your rights under the UOSH Act.
- You have a right to see UOSH citations issued to your employer. Your employer must post the citations at or near the place of the alleged violation. You may request an informal review of the abatement period granted to the employer.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records or records of your exposure to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.

# jobs.utah.gov

## 1-888-920-WORK (9675)



*Note:* This poster is designed to fulfill five federal workplace posting requirements as of 8/1/07. It does not necessarily fulfill ALL workplace posting requirements.

*For a complete listing of all federal labor law posters visit [www.dol.gov/osbp/sbrefa/poster/matrix.htm](http://www.dol.gov/osbp/sbrefa/poster/matrix.htm)*